

LAND BOARD AGENDA ITEM

September 15, 2008

REQUEST FOR PRELIMINARY APPROVAL OF THE Montana Heritage Commission/Central City, LLC Land and Easement Exchange

REQUEST: Preliminary approval to proceed with further evaluation of a proposed land and easement exchange between the State of Montana Heritage Commission (MHC) and Central City, LLC.

PROPONENT: Montana Heritage Commission

BACKGROUND: MHC's Alder Gulch shortline railroad between Virginia and Nevada Cities apparently traverses property owned by the Central City, LLC without right of legal access. Both MHC's and Central City, LLC's property was owned by Charlie Bovey when he built the shortline railroad in or about 1967.

The railroad was acquired by the state in 1997 when it acquired the bulk of Bovey's real and personal property estate, but no survey appears to have been performed. Central City, LLC purchased its property from the Ford Bovey Trust in or about July 2006, and commissioned a survey that indicates the MHC's railroad crosses over a small section of Central City, LLC's property, as indicated in the attached map.

PROPOSAL:

Enclosed is a copy of the preliminary map produced by the parties to help illustrate the property and easements to be exchanged. The land and easement exchange is proposed as follows:

- MHC will exchange a 3.5-acre parcel across which Central City, LLC currently accesses its property, reserving an irrevocable easement over the parcel to provide MHC access to adjacent railroad improvements;
- Central City, LLC will exchange a 2.8-acre parcel containing the railroad improvements and fencing owned by MHC, reserving an irrevocable easement over the parcel to provide Central City access to the west from its property;
- MHC will grant Central City, LLC an irrevocable easement west of the 2.8-parcel across MHC property to provide access to a separate 10-acre parcel Central City, LLC owns across Alder Gulch from Nevada City; and
 - Central City, LLC will grant MHC an irrevocable easement over existing Central City properties to provide MHC access to adjacent railroad improvements.

The parties have ordered surveys and title commitments for the existing properties affected by this proposed exchange. Once the Commission receives preliminary

approval from the Land Board, it will proceed with surveys of the proposed boundary line relocations, environmental assessment of the land exchange, and appraisals of the properties.

PUBLIC INVOLVEMENT PROCESS AND RESULTS:

MHC and Central City, LLC executed an Agreement to Initiate Land and Easements Exchange at a public meeting on May 29, 2008. The negotiations between the parties have been discussed at numerous Commission meetings over the past year.

The Commission intends to conduct a public hearing in Madison County for both land exchange and environmental assessment purposes in the fall of 2008, and return to both the Commission and the Board at public hearings for final approvals of the exchange in late 2008/early 2009.

EXCHANGE CRITERIA ANALYSIS: Although the subject properties are not trust lands, the parties acknowledge these exchanges need to be approved by the State Land Board, have an equal market value, and meet the criteria for land exchange, which provide guidance for the exchange of non-trust lands.

1. Equal or Greater Value: As above, an appraisal will find that the properties are of equal value; and, if not, adjustments one way or the other can be negotiated.
2. State Land Bordering on Navigable Lakes and Streams: No navigable waterways are included in the exchange.
3. Equal or Greater Income to the Trust: This land does not involve trust land. This criterion in terms of income to the State will be met per Criteria No. 1, above.
4. Equal or Greater Acreage: The acreage will be equal on a pro-rata basis as dispositive from assessed value; or additional negotiations can address or narrow any variances in acreage size.
5. Consolidation of State Land: The exchange will consolidate state land and will further the MHC's Master Plan goals and objectives for the areas in and around Virginia and Nevada Cities, Montana.
6. Potential for Long-Term Appreciation: Given the location, continued use, inherent benefits and Master Plan goals and objectives, the potential for long-term appreciation exists and is enhanced via the exchange.
7. Access: The exchange will enhance access to state lands and to areas needed for operations and maintenance of the railroad, rights of way, and fences.

AGENCY RECOMMENDATION:

The Commissioners believe this proposed land exchange would benefit the Montana Heritage Commission and the State of Montana. The Commissioners request that this exchange receive preliminary approval from the Board.

Montana Heritage Commission - Central City, LLC Land and Easement Exchange

Proposed Easement Lengths

